

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF SOUTH CAROLINA
3 AIKEN DIVISION
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5
6 UNITED STATES OF AMERICA,

7 Plaintiff,

8 v.

9 DIXIE-NARCO, INC.,
10 MAYTAG CORPORATION, and
11 RHEEM MANUFACTURING
12 COMPANY,

13 Defendants.

Civil Action No. _____

COMPLAINT

14 The United States of America, by authority of the Attorney General of the
15 United States and through the undersigned attorneys, acting at the request of the
16 Administrator of the United States Environmental Protection Agency ("EPA"), files this
17 Complaint and alleges as follows:
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19 NATURE OF THE ACTION

20 1. This is a civil action for injunctive relief and recovery of costs under
21 Sections 106(a) and 107 of the Comprehensive Environmental Response, Compensation,
22 and Liability Act ("CERCLA"), 42 U.S.C. §§ 9606(a) and 9607. The United States seeks
23 injunctive relief to remedy conditions in connection with the release or threatened release
24 of hazardous substances into the environment at the Admiral Home Appliances
25 Superfund Alternative Site (the "Site") in Williston, Barnwell County, South Carolina.
26 The United States also seeks to recover unreimbursed costs incurred, and to be incurred,
27 for response activities at the Site.
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1 9. In 1966 Chill Chest, Inc. began operating a freezer manufacturing plant at
2 the Site. Chill Chest, Inc. merged with Revco, Inc. in 1969, and Revco, Inc. merged with
3 Rheem Manufacturing Company ("Old Rheem") in 1978.

4 10. Chill Chest, Inc., Revco, Inc., and Old Rheem were owners and/or operators
5 of the Site at the time of disposal of hazardous substances within the meaning of Section
6 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2). Old Rheem merged with N.R., Inc. in
7 1984, forming Defendant Rheem. Defendant Rheem is the successor to the liabilities of
8 Chill Chest, Inc., Revco, Inc., and Old Rheem.

9 11. In 1981, Old Rheem sold the Site to Magic Chef, Inc., which operated the
10 manufacturing facility as its Admiral Home Appliances division.

11 12. Magic Chef, Inc. was the owner and/or operator of the Site at the time of
12 disposal of hazardous substances within the meaning of Section 107(a)(2) of CERCLA,
13 42 U.S.C. § 9607(a)(2). Magic Chef, Inc. merged with Defendant Maytag in 1986.
14 Defendant Maytag is the successor to Magic Chef, Inc.'s liabilities.

15 13. In 1989, Defendant Maytag transferred operation of the Site to its wholly-
16 owned subsidiary Defendant Dixie-Narco.

17 14. Defendant Dixie-Narco is the current owner and/or operator of the Site
18 within the meaning of Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

19 15. Pursuant to a 2000 Administrative Order by Consent entered into between
20 EPA and Defendant Dixie-Narco, Defendant Dixie-Narco conducted a Remedial
21 Investigation and Feasibility Study at the Site. Samples taken during the Remedial
22 Investigation showed elevated levels of hazardous substances including benzene, carbon
23 tetrachloride, dichloromethane, 1,1-dichloroethene, tetrachloroethene, trichloroethylene,
24 mercury and nickel in groundwater; chromium, copper, nickel and zinc in surface water;
25 and chromium, nickel and zinc in soils and sediments.

26 16. Benzene, carbon tetrachloride, dichloromethane, 1,1-dichloroethene,
27 tetrachloroethene, trichloroethylene, mercury, nickel, chromium, copper, and zinc, all
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1 found at the Site, are hazardous substances within the meaning of Section 101(14) of
2 CERCLA, 42 U.S.C. § 9601(14).

3 17. On September 28, 2006, EPA issued a Record of Decision ("ROD") for the
4 Site, selecting the remedy to address soil, sediment, surface water and groundwater
5 contamination.

6 18. The Site is a "facility" within the meaning of Section 101(9) of CERCLA,
7 42 U.S.C. § 9601(9).

8 19. Actual and threatened "releases" of hazardous substances into the
9 environment, within the meaning of Section 101(22) of CERCLA, 42 U.S.C. §9601(22),
10 have occurred and will continue to occur at and from the Site.

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12 FIRST CLAIM FOR RELIEF

13 20. Paragraphs 1-19 are realleged and incorporated herein by reference.

14 21. Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), provides in pertinent
15 part that:

16 In addition to any other action taken by a State or local government,
17 when the President determines that there may be an imminent and
18 substantial endangerment to the public health or welfare or the
19 environment because of an actual or threatened release of a hazardous
20 substance from a facility, he may require the Attorney General of the
United States to secure such relief as may be necessary to abate such
danger or threat, and the district court of the United States in the district
in which the threat occurs shall have jurisdiction to grant such relief as
the public interest and the equities of the case may require.

21 22. By Executive Order 12580 of January 23, 1987, the President's functions
22 under Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), have been delegated to the
23 Administrator of EPA.

24 23. EPA has determined that there is or may be an imminent and substantial
25 endangerment to the public health or welfare or the environment because of actual or
26 threatened releases of hazardous substances from the Site.

27 24. Defendants are liable for the injunctive relief to which the United States is
28 entitled at the Site under Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

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25. Paragraphs 1-17 are realleged and incorporated herein by reference.

26. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides in pertinent

- (1) the owner and operator of a vessel or a facility, [and]
- (2) any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substances were disposed of, . . . shall be liable for —
 - (A) all costs of removal or remedial action incurred by the United States Government ... not inconsistent with the national contingency plan. . . .

27. The United States has incurred and will continue to incur costs of removal and remedial actions not inconsistent with the National Contingency Plan in response to the release or threatened release of hazardous substances at and from the Site, within the meaning of Sections 101(23), (24), and (25) of CERCLA, 42 U.S.C. §§ 9601(23), (24), and (25).

28. Defendants are liable to the United States, as the current owner and/or operator of the Site, or as the owners and/or operators of the Site at the time of disposal of hazardous substances, for all response costs, including the costs of removal and remedial actions, incurred and to be incurred by the United States with respect to the Site, plus interest, pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

PRAAYER FOR RELIEF

WHEREFORE, Plaintiff, the United States of America, respectfully requests that the Court:

1. Order Defendants to abate the threat posed by the release or threatened release of hazardous substances by performing the remedy selected by EPA in the ROD;

2. Award the United States a judgment against Defendants for all costs incurred by the United States in connection with the Site, plus interest; and

1 3. Award the United States a declaratory judgment, pursuant to CERCLA
2 Section 113(g)(2), 42 U.S.C. § 9613(g)(2), that Defendants are liable for all future costs
3 incurred by the United States in connection with the Site.

4 Respectfully submitted,

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7 Environment and Natural Resources Division

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